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UNCLAS SECTION 01 OF 03 PHNOM PENH 000509

SENSITIVE
SIPDIS

STATE FOR EAP/MLS AND DRL
USAID FOR ASIA BUREAU

E.O. 12958: N/A

TAGS: [PGOV](#) [PHUM](#) [ECON](#) [KDEM](#) [CB](#)

SUBJECT: RGC HANDLING OF LAND ISSUES CRITICIZED FOLLOWING ANOTHER HIGH-PROFILE EVICTION

REF: A) PHNOM PENH 60, B) PHNOM PENH 285, C) PHNOM PENH 379, D)
PHNOM PENH 62

SENSITIVE BUT UNCLASSIFIED

¶11. (SBU) SUMMARY. Phnom Penh municipal authorities removed the last remaining "Group 78" family July 17 from a disputed neighborhood in the center of the city, after the municipal government persuaded most of the residents to accept one of its compensation packages under threat of forced eviction. Despite the quiet ending to the long-running dispute, the Group 78 case had become a high-profile litmus test of the Royal Government of Cambodia's (RGC's) ability and will to enforce the 2001 Land Law and related sub-decrees (Refs A-C). Prior to the eviction, several diplomatic missions (including Embassy Phnom Penh) and international organizations issued a joint statement calling for a moratorium on forced evictions until processes for ownership dispute resolution, compensation, and resettlement are in place.

¶12. (SBU) COMMENT. Although the joint donor statement was unable to prevent Group 78's eviction, it lays down a marker and forms an important benchmark from which to increase engagement with the RGC on land issues. END COMMENT AND SUMMARY.

EVICTION PEACEFUL, BUT STILL FORCED

¶13. (SBU) Phnom Penh municipal authorities removed the last remaining "Group 78" family July 17 from a disputed piece of riverfront property in the center of the city. Unlike the widely criticized Dey Krahorm eviction, which resulted in brawling and civilian injuries (Ref D), the Group 78 eviction was relatively peaceful, although human rights NGOs and donors have noted that this was still a forced eviction. Since the dispute began in 2006, the Phnom Penh Municipal Government (PPMG) has reportedly cajoled or pressured community members into accepting various compensation packages in exchange for leaving the land to make way for what now appears to be a bridge construction project.

¶14. (U) By July 2009, approximately 60 families remained at the site. Community members reported that on July 10, the PPMG offered a final list of three compensation options, which included: \$8,000 cash, or \$5,000 and a small plot of empty land outside of the city, or \$1,000 and a small apartment approximately 15 miles from the center of the city. (NOTE: A March 2009 appraisal of the Group 78 land by the Bonna Realty Group valued it at approximately \$1,300 per square meter, or \$15 million for the entire neighborhood. END NOTE.) The PPMG warned that if the remaining families did not accept one of the packages by the evening of July 16, bulldozers would arrive early in the morning on July 17 to tear down their houses. By July 16, all but six of the families took the \$8,000 offer. The PPMG increased its offer to \$20,000 per family for these six families, five of which accepted. Police peacefully removed the last family on the morning of July 17. According to the PPMG's final compensation offer, this family would still be entitled to a plot of land in the resettlement site outside of the city, but the

family's representative stated that he would not accept any compensation on principle.

GROUP 78 CASE VIEWED AS "A TEST" OF THE LAND LAW

15. (SBU) The Group 78 case became a high-profile litmus test of the RGC's ability and will to enforce the 2001 Land Law and related sub-decrees (Refs A-C). The community had lived in the area since the early 1980's and had various forms of documentation to prove that they had peacefully occupied the land, such as census records, national identity cards, voter records, and government-certified purchase agreements. Per the Land Law, individuals can apply for legal title to private or state private land if they can demonstrate they have occupied that land for more than five continuous years and can prove their legal possession began before 2001 (Ref A). According to human rights groups and the community's lawyers from local NGO Community Legal Education Center (CLEC), Group 78 was the "poster child" for legal land possession.

16. (U) Group 78 residents applied for land titles in 2004, but Tonle Bassac commune officials reportedly refused to sign their applications for submission to the Ministry of Land Management, Urban Planning, and Construction (MLUPC). The community filed a complaint to the MLUPC, which directed the Municipal Department of Land Management, Urban Planning, and Construction to investigate and resolve the situation. However, no investigation took place. Group 78 residents also filed complaints with the National Cadastral Commission and the National Authority on Land Dispute Resolution (Ref A), both of which also failed to investigate the case.

17. (U) Beginning in 2006, the PPMG issued a series of eviction

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notices to the community, each with a different justification. The publicly available eviction notices included claims that the community was 1) on state public property, 2) on state private property owned by a private company, and 3) occupying an area that the PPMG planned to "beautify". Phnom Penh Governor Kep Chuktema issued a sixth eviction notice on April 20, which informed residents that they were living on state land that had been leased to local developer Suor Srun Enterprises, and that residents had 15 days to leave the land. The community filed an injunction request arguing that the eviction notice was illegal, as the legal status of the land (private, state private, or state public) and their ownership claim requests remained unresolved. In May the Municipal Court dismissed the injunction request, and on July 13 the Appeals Court upheld the decision.

18. (U) In addition to pursuing resolution to their dispute through legal channels, the Group 78 community stood out among other urban land dispute cases for remaining united and proactively trying to negotiate with the PPMG. In 2007, the community worked with an independent architect to design a small apartment building, which they proposed to the government as an on-site resettlement solution.

This effort responded to the stated urban development need to beautify the area. The community worked with Bonna Realty to appraise the land and then tried to offer reduced compensation prices to the PPMG. Families even held a special Buddhist ceremony in May to try to protect themselves from forced eviction.

DONORS, CIVIL SOCIETY SPEAK OUT ON LAND ISSUES

19. (SBU) In a last-ditch effort to prevent eviction, Group 78 families met July 15 with World Bank Country Director Annette Dixon, who was in Phnom Penh for meetings with senior RGC officials, to plead for donor intervention. (NOTE: Ms. Dixon met with the Ambassador on July 17, which will be reported in septel. END NOTE.)

Although donors and diplomatic missions have rarely advocated on behalf of specific communities, and those interventions have never successfully swayed the RGC, the World Bank viewed the impending Group 78 eviction as an opportunity to address publicly the general issue of forced evictions. Several diplomatic missions (including Embassy Phnom Penh) and international organizations issued a joint statement (emailed to EAP/MLS and included below) calling for a

moratorium on forced evictions until fair, transparent processes for ownership dispute resolution, compensation, and resettlement are in place.

BUILDING ON THE MOMENTUM OF THE DONOR STATEMENT

¶10. (SBU) COMMENT. Although the joint donor statement was unable to prevent Group 78's eviction, it lays down a marker and forms an important benchmark from which to increase engagement with the RGC on land issues. It has been a challenge for donors and civil society to gain traction with the RGC on land issues, and while the government response to the public statements about Group 78 has been fairly limited, it has at least been more civil than the starker responses to comments about corruption or freedom of expression. Cambodian People's Party (CPP) lawmaker Cheam Yeap went so far as to thank development partners for raising their concerns and acknowledging that the PPMG needed to better develop relocation sites before attempting to evict communities. Reactions like this indicate that we, in cooperation with other donors and civil society, have an opportunity to try to increase constructive dialogue with the RGC on the social and economic issues that arise from land disputes in Cambodia. END COMMENT.

¶11. Following is the full donor statement issued on July 16.

BEGIN TEXT OF DONOR STATEMENT

DEVELOPMENT PARTNERS CALL FOR HALT TO EVICTIONS OF CAMBODIA'S URBAN POOR

July 16, 2009--- Development Partners are calling upon the Royal Government of Cambodia to stop forced evictions from disputed areas in Phnom Penh and elsewhere in the country until a fair and transparent mechanism for resolving land disputes is put in place and a comprehensive resettlement policy is developed.

Development Partners recognize that land issues are an ongoing challenge to development in Cambodia and urge the Government to adopt fair and transparent systems for land titling, including in urban areas, which recognize and protect the equal rights of all citizens. Development Partners stand ready to support the establishment of national policy guidelines which would ensure that evictions and resettlement follow due legal process and provide just compensation to affected individuals.

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The World Bank and a number of Development Partners have been working closely with the Government on securing land titling in Cambodia. The Government is commended for issuing more than one million land titles because this offers the opportunity for improved growth and poverty reduction.

However, in an environment of escalating urban land values in Cambodia and speculative land buying and selling, urban dwellers are under threat of being moved to make way for high value property development. This has become a major problem in Phnom Penh and other fast growing cities Q\fQ=QSQb'y2Q2L4xQ`2Pt1Qeld putting at risk the livelihoods of, thousands of poor people living in disputed urban areas. This is a result of policies and practices that do not reflect good international practice in dispute resolution and resettlement and do not make effective use of the procedures and institutions allowed for in Cambodian law.

International experience has established that secure land tenure is vital in ensuring economic growth and reducing poverty and that fair, well-implemented resettlement processes are key to an effective land tenure and titling system and protecting the rights of all people.

Development Partners reaffirm their commitment to work with the Government to help address land issues in a just and equitable manner and to ensure that the rights of poor people are promoted and protected.

signed by:

Embassy of Australia

Embassy of Bulgaria

Embassy of Germany

Embassy of the United Kingdom

Embassy of the United States of America

Embassy of Denmark / Danida

Swedish International Development Agency (Sida)

Asian Development Bank

Delegation of the European Commission

United Nations

World Bank

END TEXT OF DONOR STATEMENT

RODLEY